



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

Docket Number USCG-2017-0556

RIN 1625-AA08

Special Local Regulation, Islamorada Grand Prix of the Seas, Islamorada, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Atlantic Ocean in the vicinity of Islamorada, FL during the Islamorada Grand Prix of the Seas high-speed boat race. Approximately 70 high-speed boats and personal watercraft are expected to participate in the race, in addition to spectators. The special local regulation is necessary to ensure the safety of race participants, participant vessels, spectators, and the general public on navigable waters of the United States during the event. The special local regulation will establish two regulated areas: a race area and buffer zone; and a spectator area. This special local regulation prohibits non-participant persons and vessels from entering, transiting through, anchoring in, or remaining within the race area or buffer zone and prohibits vessels from transiting in excess of wake speed within the spectator area unless authorized by the Captain of the Port Key West or a designated representative.

DATES: This rule is effective from daily from 8 a.m. to 5 p.m. on August 19, 2017 through August 20, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0556 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Scott Ledee, Waterways Management Division Chief, Sector Key West, FL, U.S. Coast Guard; telephone (305) 292-8768, e-mail SKWWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a Notice of Proposed Rulemaking (NPRM) with respect to this rule because insufficient time remains to publish an NPRM and to receive public comments, as the Islamorada Grand Prix event will occur before the rulemaking process would be completed. Because of the dangers associated with high-speed races in the

marine environment, the special local regulation is necessary to provide for the safety of event participants, spectators, the general public, and vessels transiting the event area. For those reasons, it would be impracticable to publish an NPRM.

For the reason discussed above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

III. Legal Authority and Need for Rule

The legal basis for this rule is the Coast Guard's authority to establish special local regulations is 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on the navigable waters of the United States during the Islamorada Grand Prix of the Seas high-speed race event.

IV. Discussion of the Rule

This rule establishes a special local regulation that will encompass certain waters in the vicinity of Islamorada, Florida, during the Islamorada Grand Prix of the Seas high-speed boat race. The special local regulation will be enforced daily from 8 a.m. to 5 p.m. on August 19, 2017 through August 20, 2017. The special local regulation will establish the following regulated areas: (1) a race area and buffer zone; and (2) a spectator area. Within the race area and buffer zone, non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without obtaining permission from the COTP Key West or a designated representative. Within the spectator area, all persons and vessels are prohibited from traveling in excess of wake speed without obtaining permission from the COTP Key West or a designated representative.

Persons and vessels may request authorization to enter, transit through, anchor in, remain within, or transit in excess of wake speed within the regulated area by contacting the COTP Key

West by telephone at ((305) 292-8772 or a designated representative via VHF radio on channel 16. If authorization is granted by the COTP Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Key West or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not

reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for only nine hours daily, from August 19, 2017 through August 20, 2017; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the race area or buffer zone without authorization from the COTP Key West or a designated representative, vessel traffic will be able to safely transit around the regulated areas; (3) persons and vessels would still be able to enter, transit through, anchor in, or remain within the race area and buffer zone or transit in excess of wake speed in the spectator zone if authorized by the COTP Key West or a designated representative; and (4) the Coast Guard will provide advance notice of the special local regulation to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated areas may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is

consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation that will prohibit non-participant persons and vessels from entering, transiting through, anchoring

in, or remaining within a limited race area and will also prohibit persons and vessels from transiting at more than wake speed within a limited spectator area during a two day race event lasting nine hours daily. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.T07-0556 to read as follows:

§ 100.T07-0556 Special Local Regulations; Islamorada Grand Prix of the Seas;

Islamorada, FL

(a) Location. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Race Area and Buffer Zone. All waters in the vicinity of Islamorada, FL encompassed within an imaginary line connecting the following points: starting at Point 1 in position 24°56.300'N, 080°34.750'W; thence west to Point 2 in position 24°55.750'N, 080°35.570'W; thence south to Point 3 in position 24°55.153'N, 080°35.306'W; thence east to Point 4 in position 24°55.643'N, 080°34.464'W; thence north back to the point of origin in position 24°56.300'N, 080°34.750'W.

(2) Spectator Area. All waters in the vicinity of Islamorada excluding the regulated area, encompassed within an imaginary line connecting the following points: starting at Point 1 in position 24°56.17'N, 080°35.08'W; thence west to Point 2 in position 24°56.02'N, 080°35.30'W; thence south to Point 3 in position 24°55.96'N, 080°35.26'W; thence east to Point 4 in position 24°56.11'N, 080°35.04'W; thence north back to the point of origin in position 24°56.17'N, 080°35.08'W.

(b) Definition. The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port Key West in the enforcement of the regulated areas.

(c) Regulations. (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area and buffer zone unless authorized by the Captain of the Port Key West or a designated representative.

(2) All persons and vessels are prohibited from transiting in excess of wake speed in the spectator area, unless authorized by the Captain of the Port Key West or a designated

representative.

(3) Persons and vessels desiring to enter, transit through, anchor in, remain within or transit in excess of wake speed within any of the regulated areas may contact the Captain of the Port Key West by telephone at (305) 292-8772, or a designated representative via VHF-FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

(4) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

(d) Enforcement period. This rule will be enforced daily from 8 a.m. to 5 p.m. on August 19, 2017 through August 20, 2017.

Dated: August 10, 2017

J. A. Janszen,
Captain, U.S. Coast Guard,
Captain of the Port Key West.

[FR Doc. 2017-17238 Filed: 8/15/2017 8:45 am; Publication Date: 8/16/2017]